

REMARKS

I. STATUS OF THE CLAIMS

Claims 1-60 are currently pending in this application.

II. ELECTION OF SPECIES

In response to an election/restriction requirement, Applicants elected Species II, FIG. 2, with claims 1-12, 23-34, 48 and 53 readable thereon.

In the outstanding Office Action, the Examiner indicated that only claims 1, 4, 23, 26, 48 and 53 of the elected species were considered, and that the remaining elected claims 2-3, 5-12, 24, 25 and 27-34 were not considered. However, as claims 2-3 and 5-12 are dependent from claim 1, it is respectfully submitted that these dependent claims should be allowed if claim 1 is eventually allowed.

Moreover, as claims 24, 25 and 27-34 are dependent from claim 23, it is respectfully submitted that these dependent claims should be allowed if claim 23 is eventually allowed.

In addition, it is respectfully submitted that independent claims 1 and 23 are generic. Therefore, if the Examiner does not consider the corresponding dependent claims 2-3, 5-12, 24, 25 and 27-34, it is respectfully requested that the Examiner provide specific reasons why these dependent claims are not considered.

Moreover, claims 4 and 26, which are currently under consideration, are dependent from withdrawn claims 2 and 24, respectively. Therefore, it is respectfully submitted that claims 2 and 24 should now be considered.

Moreover, after further review of the claims, it is respectfully submitted that that independent claims 40, 45, 46 and 47 are sufficiently similar to considered claim 1 and 23, so that claims 40, 45, 46 and 47 should now be considered. Moreover, as with claims 1 and 23, these independent claims 40, 45, 46 and 47 can also be understood from FIG. 2. Therefore, it is respectfully requested that independent claims 40, 45, 46 and 47 be considered at this time, instead of requiring the Applicants to prosecute these claims in a separate divisional application.

Further, if these independent claims are eventually allowed, it is respectfully submitted that all corresponding dependent claims should also be allowed.

III. REJECTION OF CLAIMS 1, 23, 48 AND 53 UNDER 35 U.S.C. 102(b) AS BEING ANTICIPATED BY IWAMOTO (U.S. PATENT NO. 5,768,010)

Claims 1 and 23 specifically recite an acoustic optical tunable filter (AOTF). Iwamoto does not disclose a tunable filter. Instead, Iwamoto discloses a scanning device. See, for example, the Abstract of Iwamoto.

For example, as a tunable filter, the present invention as recited, for example, in claims 1 and 23, branches light into selected-wavelength light and light with other wavelengths. See, for example, FIG. 2, and the disclosure on page 20, line 29, through page 21, line 18, of the specification.

Iwamoto does not disclose such branching of light into selected-wavelength light and light with other wavelengths. Instead, as illustrated in the scanning device of FIGS. 1 and 2 of Iwamoto, Iwamoto simply deflects a laser light L1 having a predetermined frequency to produce a coupled light L2 and a non-coupled light L3. See, for example, column 3, line 56, through column 4, line 66, of Iwamoto.

Accordingly, it is respectfully submitted that the fundamental nature of the present invention as recited, for example, in claims 1 and 23, is significantly different than Iwamoto.

Although the above comments are specifically directed to claims 1 and 23, it is respectfully submitted that the comments would be helpful in understanding differences of other rejected claims over Iwamoto.

In view of the above, it is respectfully submitted that the rejection is overcome.

IV. THE REJECTION OF CLAIMS 4 AND 26 UNDER 35 U.S.C. §103(a) AS BEING UNPATENTABLE OVER IWAMOTO (U.S. PATENT NO. 5,768,010)

The above comments for distinguishing over Iwamoto also apply here, where appropriate.

In view of the above, it is respectfully submitted that the rejection is overcome.

V. CONCLUSION

In view of the above, it is respectfully submitted that the application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

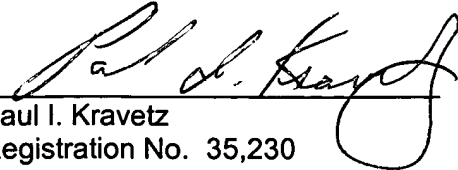
If any further fees are required in connection with the filing of this response, please charge such fees to our Deposit Account No. 19-3935.

Respectfully submitted,
STAAS & HALSEY LLP

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By: _____

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A handwritten signature in black ink, appearing to read "Paul I. Kravetz", written over a horizontal line.

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